

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

**STATE OF OHIO EX REL.
MARY JO KILROY**
3100 Midgard Road
Columbus, Ohio 43202

Relator,

-v-

**FRANKLIN COUNTY BOARD
OF ELECTIONS,**
250 E. Broad Street
Columbus, Ohio 43215

Respondent.

Case №: _____

Judge: _____

COMPLAINT FOR WRIT OF MANDAMUS

NOW COMES Relator, Mary Jo Kilroy, and hereby states her Complaint as follows:

1. Relator Mary Jo Kilroy was a candidate for Representative to the 15th Congressional District at the November 7, 2006, general election.
2. Respondent Franklin County Board of Elections is the Board of Elections in the most populous county in the 15th Congressional District.
3. On December 4, 2006, counsel for Relator requested that observers for the candidates be permitted to view the provisional ballot applications for provisional ballots cast but not counted in the 15th Congressional District election as part of the recount of that election and to obtain a list of such ballots if one exists and reason for rejection of each such ballot. (See attached, December 4, 2006, Letter from Kilroy counsel to Franklin County Board of Elections).
4. That same day, Respondent Board of Elections informed Plaintiff that Defendant Board would not provide the requested information because the Help America Vote Act (HAVA) limits access to this information. (See

attached December 4, 2006, Letter from Franklin County Board of Elections to Kilroy counsel).

5. Pursuant to R.C. § 149.43(A)(1), the information sought by Relator is a public record.
6. Respondent's refusal to permit the inspection of the records and to provide a copy of the same violates R.C. §149.43.

WHEREFORE, Relator respectfully pray the Court to grant the following relief:

- A. Issue a Writ of Mandamus to compel Respondent to allow Relator and her observers for the candidates to view the provisional ballot applications for provisional ballots cast but not counted in the 15th Congressional District election as part of the recount of that election and to obtain a list of such ballots if one exists and reason for rejection of each such ballot;
- B. Assess the costs of this action against Respondent;
- C. Award Relator her attorney fees and expenses;
- D. Award such other relief as may be appropriate.

Respectfully submitted,

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COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served, via facsimile machine, this _____ day of December, 2006, upon:

Patrick J. Piccininni
FRANKLIN COUNTY ASSISTANT PROSECUTING ATTORNEY
373 South High Street, 14th Floor
Columbus, Ohio 43215

Mark A. McGinnis, Attorney at Law